

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

PPS DATA, LLC

vs.

JACK HENRY & ASSOCIATES, INC.

CIVIL ACTION No. 2:18-cv-0007-JRG

**PLAINTIFF PPS DATA, LLC'S RESPONSE IN OPPOSITION TO MOTION TO
STRIKE AND EXCLUDE EXPERT TESTIMONY OF DR. MICHAEL SHAMOS, PH.D
REGARDING INFRINGEMENT OF U.S. PATENT NO. 8,660,956**

Defendant Jack Henry & Associates, Inc.'s ("JHA") motion to strike and exclude expert testimony of Dr. Michael Shamos, Ph.D. regarding infringement of U.S. Patent No. 8,660,956 [Dkt. No. 80] should be denied as moot. JHA first identified this issue and requested a meet and confer on Thursday June 6, 2019 at 5:07 p.m. CDT, less than 24 hours from when JHA filed its motion. During the meet and confer, counsel for PPS Data informed counsel for JHA that PPS Data was already evaluating reducing the number of asserted claims, and was likely to withdraw its claims with respect to the '956 patent, but due to the late identification of this issue and preexisting scheduling conflict within PPS Data, it was unlikely that PPS Data would be able to confirm whether or not it would be withdrawing the asserted claims of the '956 patent prior to the June 7th deadline to file motions to strike. In a continuing effort to reduce the number of asserted claims for trial, on June 19, 2019, PPS Data informed JHA that it was withdrawing approximately half of the asserted claims over the five patents in suit, including all remaining asserted claims of the '956 patent. Although counsel for PPS Data requested JHA to withdraw the present motion as moot, as of this filing, PPS Data did not receive a response, necessitating this response. In light of the fact that the motion is moot, PPS Data will not respond to substance of the motion. To the extent that the Court does not believe that the issues raised in JHA's motion is moot, PPS Data respectfully requests the opportunity to respond to the substance of the motion.

For the foregoing reasons, PPS Data respectfully request that the Court deny JHA's motion as moot.

Dated: June 21, 2019

Respectfully submitted,

By: s/Anthony H. Son

Anthony H. Son

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CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, this motion was served on all counsel who are deemed to have consented to electronic service. Local Rule CV-5(a)(3)(A). Pursuant to Fed. R. Civ. P. 5(d) and Local Rule CV-5(d) and (e), all other counsel of record not deemed to have consented to electronic service were served with a true and correct copy of the foregoing by email and/or fax, on this the 21st day of June, 2019.

/s/ Anthony H. Son

Anthony H. Son